IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 543/1998

SATISH CHAND Vs. STATE OF RAJASTHAN & ORS.

DATE: 26.02.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. A.K. Gupta for the complainant-petitioner.
Mr. B.S. Chhaba, Public Prosecutor for the State.
Mr. P.K. Sharma for the accused-respondents.

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The present criminal revision petition under Section 397 r/w Section 401 Cr.P.C. is preferred by the petitioner against the order dated 20.05.98 passed by the Civil Judge (Jr. Division) & Judicial Magistrate, Weir, District Bharatpur dismissing the complaint in Criminal Complaint No. 17/96 and Final Report No. 15/1997 arising out of FIR No. 198/1996 registered at P.S. Weir for the offence under Section 304-B IPC.

The main grievance of the petitioner is that without considering the evidence in support of the private complaint, the Court below has relied upon the final report and the affidavits.

Having considered the submissions made by the learned counsel for the petitioner, learned PP for the State as well as learned counsel appearing for the

accused-respondents, I find fault in the impugned order dated 20.05.98 as the person who has deposed in the affidavit should be cross-examined to verify the facts mentioned in the affidavit and solely the affidavit cannot be taken into consideration for the purposes of deciding the private complaint.

In view of these facts, without expressing any opinion on the merits of the case, I deem it proper to quash and set-aside the impugned order dated 20.05.98 passed by the trial Court and remand the matter back to the trial Court for fresh adjudication after giving opportunity of being heard to the parties and after considering the cross examination of the witnesses and then pass speaking order.

With these observations, the revision petition stands disposed of. Record be sent back forthwith.

(K.S. RATHORE),J.

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